

BEFORE THE INDEPENDENT HEARINGS PANEL

UNDER the Resource Management Act 1991 (RMA)

IN THE MATTER OF A submission by the Ministry of Education on the
Proposed Waitomo District Plan

BY **THE MINISTRY OF EDUCATION**
Submitter

**STATEMENT OF PRIMARY EVIDENCE OF NEDA SARA BOLOURI ON
BEHALF OF THE MINISTRY OF EDUCATION**

Planning

04 November 2024

1. INTRODUCTION

- 1.1 My name is Neda Sara Bolouri. I am an Associate (Planning) for Beca Limited (**Beca**).
- 1.2 I have the following qualifications:
 - (a) Bachelor of Social Sciences from the University of Waikato; and
 - (b) Postgraduate Diploma - Resources and Environmental Planning
- 1.3 I am a full member of the New Zealand Planning Institute.
- 1.4 In my role at Beca I am the Central North reviewer on the Resource Management Act (RMA) National Monitoring contract for the Ministry of Education (**the Ministry**). My role includes having oversight of district and regional plan changes in the Central North of New Zealand as they may influence the roles and responsibilities of the Ministry in planning for educational facilities in communities.
- 1.5 I have over 12 years' experience as a Planner. My experience relates to both private and public sector planning work in New Zealand, preparing and processing resource consents, and preparing and presenting submissions on plan changes on a wide variety of district and regional matters.
- 1.6 My statement sets out planning evidence on behalf of the Ministry in relation to their submission on the Proposed Waitomo District Plan.
- 1.7 In preparing this evidence I have reviewed the following:
 - (a) The Proposed Waitomo District Plan
 - (b) The s42A report on Chapter 41 – Residential Zone prepared by Predrag Draca

2. CODE OF CONDUCT

- 2.1 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the 'Environment Court Practice Note 2023' and that I agree to comply with it. I confirm that I have considered all material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

3. SCOPE OF EVIDENCE

3.1 My evidence will cover the following topics to assist the Hearings Panel in their deliberations:

- (a) A summary of the Ministry's interest
- (b) A summary of the Ministry's submission point in contention
- (c) The locational need for educational facilities; and
- (d) The activity status of educational facilities.

4. SUMMARY OF THE MINISTRY'S INTEREST

4.1 The Ministry is the Government's lead advisor on the New Zealand education system, shaping the direction for education agencies and providers and contributing to the Government's goals for education. The Ministry assesses population changes, school roll fluctuations and other trends and challenges impacting on education provision at all levels of the education network to identify changing needs within the network so the Ministry can respond effectively.

4.2 The Minister of Education is a Requiring Authority under Section 166 of the Resource Management Act 1991 (RMA) and the Ministry is her agent. Section 9(3) (and subsequently Section 10(1)(b)(i)) of the RMA does not apply if a designation is in place. Within the Waitomo District, there are 17 sites designated for a range of educational facilities by the Minister of Education.

4.3 The District Plan is the key planning document under the RMA that supports the Ministry's processes to establish and enable educational facilities for land use planning. The Ministry has submitted on provisions where they are considered to impact on the delivery of educational facilities.

4.4 The Ministry submitted on the Proposed Waitomo District Plan ('the Plan') in 2022. The matters which are to be addressed in this evidence from the Ministry's submission (submitter number 24) can be summarised as follows:

- (a) To enable the Ministry to respond to residential growth and establish new schools in the Waitomo District to support the school network.

5. SUMMARY OF THE MINISTRY'S SUBMISSION POINT

- 5.1 The Ministry submitted in support of rules enabling education facilities across a number of chapters in the Proposed District Plan. In the matters that the S42A Reporting Officer has accepted or accepted in part the Ministry's submission points, I have not repeated them here, and will focus solely on one submission point in contention.
- 5.2 The Ministry's sought to amend provision RESZ-R12 to remove 'educational facilities' from the discretionary activity status (Sub 24.38) and requested the addition of a new provision RESZ-RXX (Sub 24.39) to enable 'educational facilities' as restricted discretionary activities along with recommended matters of discretion (refer to paragraph 5.5).
- 5.3 The Ministry requested that educational facilities are enabled in the Residential Zone to better serve the education needs of the residential community without added cost and uncertainty that comes with a discretionary activity status.
- 5.4 Council's S42A Reporting Officer, Mr Draca, has recommended rejecting the Ministry's submission stating the following:

44. RESZ-R12 provides for educational facilities and community facilities, libraries and museums as a discretionary activity. The Ministry of Education request that educational facilities are removed from RESZ-R12 and a new rule is added providing for educational facilities as a restricted discretionary activity, with the following matters of discretion.

RESZ-RXX

Educational facilities

Activity status: RDIS

Matters over which discretion is restricted:

- a. **The size, design, location, construction, and materials used; and**
- b. **Effects on the streetscape and amenity of the area; and**
- c. **The level of on-site amenity and landscaping; and**

- d. Adverse effects on the safe, efficient, and effective operation of the road transport network, giving particular consideration to pedestrian and cyclist safety; and
- e. Parking, manoeuvring and access; safety and efficiency, including the provision of sufficient off-street parking and the effects of traffic generation; and
- f. Consideration of reverse sensitivity effects; and
- g. The extent to which the key moves in the relevant Town Concept Plan has been considered and provided for.

45. *The Ministry considers that educational facilities should be enabled where there is potential for a population to support them, and that a discretionary activity status is too restrictive. It is noted that the Ministry is a requiring authority and has the ability to designate land should it wish to. Given the broad range of activities provided for within the definition of 'educational facilities' and the need to control the range of adverse effects that would be potentially generated by an educational facility in the residential zone, it would not be appropriate to provide for them as a restricted discretionary activity.*

6. LOCATIONAL NEED OF EDUCATIONAL FACILITIES

- 6.1 In my experience, activities are often classed as discretionary where they are not generally anticipated to occur in a particular environment, or the effects are so variable that it is not possible to control them in advance.
- 6.2 By not enabling educational facilities in the Residential Zone, it sends a clear message to the community that any of these identified activities are not provided for or anticipated, and any application can come against scrutiny. So, I now ask the question, if not in the Residential Zone, where should educational facilities be anticipated? In lieu of no education precinct or similar, residential zones across every district of New Zealand are the ideal location for educational facilities.
- 6.3 Many Councils across the country are enabling educational facilities in their residential zones as restricted discretionary activities in an acknowledgement of the locational needs of the population these facilities are serving. By locating educational facilities in residential zones, the District Plan is managing transportation impacts by

reducing commute distances and times and meeting the needs of the community and contributing to their wellbeing, which are Section 5 RMA matters.

- 6.4 The reality of Waitomo District is that the projected population growth may not warrant large scale addition or expansion of educational facilities. Therefore, enabling the provision of educational facilities in the Residential Zone will not create large scale unanticipated effects, but rather will set the context for the District of how and where these activities are anticipated to better support well-functioning communities.

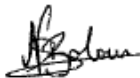
7. ACTIVITY STATUS

- 7.1 Categorising educational facilities and community facilities, libraries, and museums in one provision creates a very broad range of activities that can occur, and I understand Mr Draca's reasons for rejecting the submission point. Placing a blanket discretionary activity status on these activities gives Council more control to manage the potential effects that can be generated, particularly as some of these activities do not have a locational need to be in the Residential Zone, such as museums.
- 7.2 Provision of a separate rule for educational facilities, or amendment to the existing rule, as a restricted discretionary activity would provide Council and the community sufficient and appropriate assurance that the potential and actual effects of a new facility would be considered through a resource consent process.
- 7.3 Restricted discretionary status would afford implementors, such as processing officers and decision-makers of the Plan with reasonable guidance and restraint when assessing how educational facilities may impact the environment they sit within.
- 7.4 Additionally, the matters of discretion which the Ministry has included in the proposed new rule are sufficient to address any potential effects that arise from the educational facility. Again, these matters of discretion are regularly used by other district councils around New Zealand without contention.
- 7.5 While the Ministry can (and is likely to) utilise the Notice of Requirement process provided for under s166 of the RMA for the development of new educational facilities, I do not consider that this negates the need for educational facilities to be specifically provided for within residential zones.
- 7.6 In considering a Notice of Requirement, territorial authorities are required to have particular regard to any relevant provisions of any national policy statements, coastal policy statements, regional policy statements and plans.

- 7.7 The inclusion of enabling provisions is also particularly relevant when considering designations are a statutory tool that takes time to implement. When expanding or altering the Ministry's sites, schools sometimes obtain resource consents in the interim to enable any additional land to be used for education purposes. These facilities contribute to the wider social infrastructure network
- 7.8 Overall, the inclusion of enabling provisions for educational facilities within the residential zone chapters would thereby assist both the territorial authority and the Ministry in enabling future educational facilities within the Waitomo District

8. CONCLUSION

- 8.1 I am in support of the s42A Reporting Authors' recommendations where they accept or accept in part, the Ministry's submission points, and these have not been repeated here.
- 8.2 My evidence has focused on the main matter of contention and for the reasons outlined above, I do not agree with the s42A Reporting Officer's recommendation to decline the Ministry's requested changes:
- (a) to amend provision RESZ-R12 by removing 'educational facilities' from the discretionary activity status (Sub 24.38) and
 - (b) requesting the addition of a new provision RESZ-RXX (Sub 24.39) to enable 'educational facilities' under a restricted discretionary activity status.
- 8.3 I am open to discussing this matter further with Council Officers.



Neda Bolouri

4 November 2024